IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

WP(C).No. 33517 of 2006(M)

AGAINST THE ORDER DATED 04/01/2006 IN EP 188/2006 IN OS.213/2003 of PRINCIPAL SUB COURT,ERNAKULAM .

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PETITIONER:

P.BHASKARAN, AGED 79 YEARS,
S/O.PADMANABHAN, BUILDING NO.38/437,
SIDE HOTEL, PHARMACY JUNCTION,
ERNAKULAM.

BY ADV. SRI.A.T.ANILKUMAR

RESPONDENTS:

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1. ST.MARYS CATHEEDRAL BASILICA,
ERNAKULAM, KOCHIN-31,
REP. BY VICAR,
VICAR REV.FR.VARGHESE NJALIYATH,S/O.OUSEPH,
R/AT.PRESBITORY OF THE BASILICA CHURCH, ERNAKULAM VILLAGE,KANAYANNUR TALUK, ERNAKULAM DISTRICT.

2. KAIKAR IN CHARGE JOB POOTHULLIL,
S/O.VARKEY, KANAYANNUR TALUK,
ERNAKULAM DISTRICT.

3. KAIKAR IN CHARGE K.J.ANTONY,
S/O.JOHN, RESIDING AT KANIAMPARAMBIL,
KONTHURUTHY HOUSE, ERNAKULAM VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR, J.

W.P.C.NO.33517 OF 2006 (M)

Dated this the 18 th day of December, 2006.

JUDGMENT

An ex-parte decree was passed on 4.1.06 against petitioner. Petitioner filed Ext.P4 application to condone the delay and Ext.P3 application to set aside the ex-parte decree only on 15.12.06. This petition is filed under Article 227 of constitution of India, for a direction to Sub Court, Ernakulam, not to proceed with Ext.P2 execution petition till disposal of Ext.P3 and P4 applications. This petition is also filed on 15.12.06. Evidently all the applications are filed on the same day. Learned counsel appearing for petitioner submitted that before getting an opportunity to get the ex-parte decree set aside, petitioner may not be evicted.

On hearing learned counsel appearing for petitioner I do not find it necessary to grant an order of stay of execution. It is for learned sub Judge, before whom Ext.P3 and P4 applications were pending to decide it. The learned Sub Judge is directed to dispose Ext.P3 and P4 applications expeditiously.

M.SASIDHARAN NAMBIAR,
JUDGE.

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